

RULE 63 (37 CFR § 1.63)
DECLARATION
FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "Method to Detect IgE", the specification of which is attached hereto and identified as Attorney File No. DI-1.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability in accordance with 37 CFR §§ 1.56(a) and (b) as set forth on the attached sheet indicated Page 3 hereof and which I have read.

I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)		<u>Day/Month/Year Filed</u>	Priority Claimed	
<u>Number</u>	<u>Country</u>		<u>Yes</u>	<u>No</u>


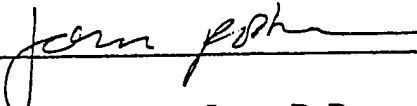

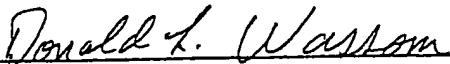
N/A

I hereby claim the benefit under 35 U.S.C. 120/365 of all United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information material to patentability in accordance with 37 CFR §§ 1.56(a) and (b) which occurred between the filing date(s) of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status: patented, pending, abandoned</u>
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N/A

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

- 1) Inventor's Signature  Date 26 Nov 96
Inventor's Name (typed): Glenn R. Frank
Citizenship: U.S.A.
Residence: 10317 North County Road 13
Wellington, CO 80549
Post Office Address*: Same as residence
- 2) Inventor's Signature  Date 11/26/96
Inventor's Name (typed): James P. Porter
Citizenship: U.S.A.
Residence: 5016 South Overhill Drive
Fort Collins, CO 80526
Post Office Address*: Same as residence
- 3) Inventor's Signature  Date 11-26-96
Inventor's Name (typed): Keith E. Rushlow
Citizenship: U.S.A.
Residence: 1600 Dogwood Court
Fort Collins, CO 80525
Post Office Address*: Same as residence
- 4) Inventor's Signature  Date 11-26-96
Inventor's Name (typed): Donald L. Wassom
Citizenship: U.S.A.
Residence: 4615 Eagle Lake Drive
Fort Collins, CO 80524
Post Office Address*: Same as residence

37 CFR §§ 1.56(a) and (b)
DUTY TO DISCLOSE INFORMATION MATERIAL
TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application,
and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.*

*Note, 37 CFR § 1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b)."

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am an official empowered to act on behalf of Heska Corporation of 1613 Prospect Parkway, Fort Collins, Colorado 80525, a small business concern.

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled "METHOD TO DETECT IgE," and identified as Attorney File No. DI-1-2, described in the specification filed herewith.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(c) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME _____

ADDRESS _____

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT
ORGANIZATION

NAME _____

ADDRESS _____

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT
ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Dated: August 30, 2001

By: James H. Fuller
Name: James H. Fuller
Title: President and Chief Operating Officer
Heska Corporation
1613 Prospect Parkway
Fort Collins, Colorado 80525

POWER OF ATTORNEY

On behalf of HESKA CORPORATION, a Delaware corporation, having a principal place of business at 1613 Prospect Parkway, Fort Collins, Colorado 80525, being the assignee of and owning all right, title and interest in the invention entitled "METHOD TO DETECT IgE," for which application for Letters Patent of the United States has been made by Glenn R. Frank, James P. Porter, Keith E. Rushlow and Donald L. Wassom, said application being identified as Attorney File No. DI-1-3 and executed on even date herewith, I, Robert B. Grieve,, as Chairman and Chief Executive Officer of Heska Corporation, hereby appoint Carol Talkington Verser, Registration No. 37,459; Timothy L. McCutcheon, Registration No. 41,184; Theresa A. Brown, Registration No. 32,547; and Richard J. Stern, Registration No. 50,668; of Heska Corporation, 1613 Prospect Parkway, Fort Collins, Colorado 80525, telephone number (970) 493-7272, as attorneys and agents for HESKA CORPORATION with full powers of substitution, association and revocation to prosecute the application and related U.S. and foreign applications and to transact all business in the United States Patent and Trademark Office and all foreign and international patent offices connected therewith.

Dated: January 23, 2004

By: 
Robert B. Grieve
Chairman and Chief Executive Officer